

## MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: August 25, 2023

RE: Legislative Report: Austin and Washington Update

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Please find below an update on legislative activities in Austin and Washington. (*To access links below, control+click on link.*)

### Gulf Coast Protection District (GCPD) Update

#### Meeting with USACE Assistant Secretary for Civil Works

In my role as GCPD Board Director, along with GCPD Executive Director Nicole Sunstrum, I met with the U.S. Army Corps of Engineers Assistant Secretary for Civil Works Michael Connor during a lunch meeting to discuss the Coastal Texas Storm Surge Protection System project. Meeting attendees included: Wesley Coleman, USACE Regional Programs Director Southwest Division; Colonel Rhett Blackmon, Galveston District Engineer and Commanding Officer; Lt. Colonel Ian Sullivan, Deputy Commander for Mega Projects; Byron Williams Deputy District Engineer and Chief, Programs and Project Management Division; and Julie Zinno, Executive Office USACE Southwestern Division.

Discussion emphasized key points of interest to the Biden Administration (the ASA is a political appointment position) – the project is a balance of hard infrastructure and nature-based approaches to storm surge protection for a population area that supports economic centers and supply chains originating in the upper Texas Coast and benefiting economies for Texas, other states, and the nation.

Specifically, we briefed ASA Connor on the critical juncture involving the project and GCPD as non-federal sponsor:

- The 88<sup>th</sup> Texas Legislature appropriated \$200 million in anticipation of the non-federal share needs for the project. Allocation of federal funds for the project is critical for communicating to the Texas Legislature the USACE commitment to this project.
- USACE has \$950 million in unallocated federal Bipartisan Infrastructure Law. GCPD is seeking \$100 million for the first year.
- GCPD work with the USACE Galveston District on sequencing project accomplishments. While seeking federal funds, the GCPD Board is working with USACE Galveston District to break the project into “buckets” of accomplishments. For the first bucket, we are defining budgets for work on the dual beach and expanded beach system and preconstruction and engineering for the gate system.

Starting work on the dune and beach system provides opportunity to achieve an accomplishment within a shorter timeframe, while still advancing work on the gate system. GCPD has signed a Memorandum of Understand In-Kind Agreement for design work and is in the process of developing a similar agreement for construction work. Given how the West End re-nourishment work could dovetail with the Coastal

Texas Dune and Beach System project, presents further motivation for USACE Headquarters to allocate funds as quickly as possible to fund the first GCPD “bucket” of accomplishments.

## Austin Update

### TWDB Seeking Input on Nature-Based Solutions for Flood Mitigation in Texas

The Texas Water Development Board (TWDB) is developing a statewide guidance manual on the use of nature-based flood mitigation solutions for communities in Texas. As part of the initial research and literature review, the TWDB is soliciting input from communities, practitioners, universities, public agencies, non-government organizations, and non-profit entities regarding their experience and/or knowledge using nature-based solutions in their service area. TWDB is asking interested persons to [complete the survey](#) by **Friday, September 29**. The survey takes approximately 10 minutes to complete and includes an option to sign up for project updates or connect further with these efforts.

### 88<sup>th</sup> Legislature: Texas Constitutional Amendments on the November Ballot

The 88<sup>th</sup> Texas Legislature passed several resolutions to place constitutional amendments on the ballot.

- **Proposition 12 (H.J.R. 12):** [HJR 134](#), authored by Representative Greg Bonnen MD and sponsored by Senator Mayes Middleton, proposes to amend the state constitution to abolish the office of county treasurer of Galveston County, contingent on approval of a majority of voters in Galveston County. If approved by the voters, the amendment takes effect January 1, 2024. The resolution authorizes the Commissioners Court of Galveston County to employ or contract with a qualified person or designate another county officer to perform any of the functions that would have been performed by the treasurer if the office had not been abolished.

#### Other Constitutional Amendments

Texas Municipal League (TML) has prepared summaries of constitutional amendments that will be placed on the ballot in November. For additional information, see the Texas Legislative Council’s [“Analyses of Proposed Constitutional Amendments”](#).

- **Proposition 1 (H.J.R. 126):** [H.J.R. 126](#) proposes a constitutional amendment to protect a person’s right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property that the person owns or leases.
- **Proposition 2 (S.J.R. 64):** [S.J.R. 64](#) proposes a constitutional amendment to allow the governing body of a county or municipality to exempt from property taxation all or part of the appraised value of real property used to operate a child-care facility.
- **Proposition 4 (H.J.R. 2):** [H.J.R. 2](#) proposes a constitutional amendment to modify certain provisions of the Texas Constitution related to property taxes. The proposed amendment would authorize the legislature to temporarily limit the maximum appraised value of real property for property tax purposes in a tax year. The proposed amendment also would increase the mandatory homestead exemption for school district property taxation from \$40,000 to \$100,000.
- **Proposition 6 (S.J.R. 75):** [S.J.R. 75](#) proposes a constitutional amendment to create the Texas water fund. The Texas water fund would be a special fund in the state treasury outside the general revenue fund, administered by the Texas Water Development Board (TWDB) or its successor to assist in financing water projects in the state.

- **Proposition 7 (S.J.R. 93):** [S.J.R. 93](#) proposes a constitutional amendment to establish the Texas energy fund. The Texas energy fund would be a special fund in the state treasury outside the general revenue fund, administered by the Public Utility Commission of Texas (PUC) or its successor.
- **Proposition 8 (H.J.R. 125):** [H.J.R. 125](#) proposes a constitutional amendment to create the broadband infrastructure fund. The broadband infrastructure fund would be a special fund in the state treasury outside the general revenue fund, administered by the Texas Comptroller of Public Accounts.
- **Proposition 14 (S.J.R. 74):** [S.J.R. 74](#) proposes a constitutional amendment to establish the centennial parks conservation fund as a trust fund outside the state treasury.

## Washington Update

Congress is in recess. The Senate returns to work on September 5<sup>th</sup> and the House returns September 12<sup>th</sup>.

### FY 2024 Federal Appropriations Update

With House FY 2024 appropriations action uncertain, Senators are framing a draft Continuing Resolution (CR) spending and supplemental appropriations package for floor action when they return from the August recess in September. However, with the federal fiscal year ending September 30<sup>th</sup>, quick action by the House and Senate is needed to avert a partial government shutdown before FY 2023 appropriations lapse on October 1. Meanwhile, the Federal Emergency Management Agency (FEMA) Disaster Aid Fund is nearly depleted prompting the agency to defer longer-term rebuilding projects in order to respond to events in Maui, Southern California and elsewhere.

While House and Senate leaders have expressed support for a short-term CR funding bill, potentially to run past Thanksgiving, House Speaker Kevin McCarthy (R-CA) faces opposition from some conservative members who oppose a CR and supplemental package unless it includes priorities relating to overall spending levels, the border, the Justice Department and the military. These factors have prompted Senate Appropriations Committee staff to begin early drafts that reflect the chamber's emerging support for a CR/supplemental package encompassing more aid for Ukraine, disaster relief accounts and border security. Nonetheless, there are concerns a partial government shutdown may not be avoided.

In addition to expiring FY 2023 appropriations, NFIP authorization also expires on September 30, 2023. On July 19, Senator John Kennedy (R-LA) and Senator Cindy Hyde-Smith (R-MS) introduced the National Flood Insurance Program Extension Act of 2023, [S.2391](#), to prevent expiration and extend the NFIP for one year, until September 30, 2024.

### GAO Report Findings on National Flood Insurance Program (NFIP) Risk Rating 2.0

On July 31, the Government Accountability Office (GAO) released their report on "[Flood Insurance: FEMA's New Rate-Setting Methodology Improves Actuarial Soundness but Highlights Need for Broader Program Reform](#)," conducted from March 2022 to July 2023. The full report is [accessible here](#).

GAO's **key findings** include:

- Risk Rating 2.0 is aligning premiums with risk, but affordability concerns accompany the premium increases.
- A statutorily-required assessment has the effect of charging current and future policyholders for previously incurred losses, which violates actuarial principles and exacerbates affordability concern

- Unless Congress addresses this debt—for example, by canceling it or modifying repayment terms—and the potential for future debt, NFIP’s debt will continue to grow, actuarial soundness will be delayed, and affordability concerns will increase.
- Risk Rating 2.0 doesn’t appear to have significantly changed conditions in the private flood insurance market because NFIP premiums generally remain lower than what a private insurer would need to charge to be profitable. Further, certain program rules continue to impede private-market growth.

The report makes **recommendations for Congress**:

- Authorize and require FEMA to incorporate the reserve fund assessment, to the extent necessary based on actuarial principles, into the risk charge within the full-risk premium.
- Repeal the HFIAA surcharge and authorizing and require FEMA replace forgone revenue with actuarially determined premium adjustments.
- Provide any affordability assistance for flood insurance through a means-based program that is reflected in the federal budget rather than through statutorily discounted premiums.
- Address NFIP’s legacy and potential future debt...
- Require FEMA to allow private flood insurance coverage to satisfy NFIP’s continuous coverage.
- Authorize and require FEMA to offer risk based partial refunds for midterm cancellations of NFIP policies that are replaced by private flood insurance policies.

The report also makes **recommendations for FEMA**, which FEMA has concurred with:

- Adjust Community Rating System (CRS) by calculating a community’s rating based only on community activities that reduce flood risk and by incorporating discounts into the full-risk premium based on the actuarial evaluation of risk reduction
- Evaluate other means for incentivizing desirable community activities that cannot be actuarially justified but are currently a basis for discounts in CRS.
- Publish an annual actuarial report that includes the loss levels that full-risk premiums are designed to cover and that current discounted premiums are able to cover, and the associated uncertainty; the estimated premium revenue and shortfall for current and future years; and an evaluation of NFIP’s fiscal outlook, including projections of future debt.
- Take steps to directly inform individual policyholders about Risk Rating 2.0 and make them aware of available information.
- Take additional steps to make available to policyholders, agents, or both more detailed property-specific flood risk information to help them better understand the justification for individual premiums and potential savings associated with available mitigation options.

**FEMA has responded affirmatively to the report**, and provided timelines for implementation of recommendations:

- Enhance policyholder communication productions and public-facing websites – April 30, 2024
- Pilot online quoting tool – April 30, 2025
- Complete CRS Communities Incentives report – August 29, 2025
- Publish Final Annual Actuarial Report – September 30, 2025
- Begin implementation of new program design for CRS – December 31, 2027

## Reports of Interest

[Disaster Recovery: HUD Should Develop Data Collection Guidance to Support Analysis of Block Grant Fraud Risks](#)

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